

ORIGINAL

BLUMENTHAL, NORDREHAUG & BHOWMIK

Norman B. Blumenthal (State Bar #068687)

Kyle R. Nordrehaug (State Bar #205975)

Aparajit Bhowmik (State Bar #248066)

2255 Calle Clara

La Jolla, CA 92037

Telephone: (858)551-1223

Facsimile: (858) 551-1232

UNITED EMPLOYEES LAW GROUP

Walter Haines, Esq. (CSB #71075)

65 Pine Ave, #312

Long Beach, CA 90802

Telephone: (562) 256-1047

Facsimile: (562) 256-1006

Attorneys for Plaintiff

FILED

09 MAR 18 PM 4:13

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY: 

DEPUTY

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

'09 CV 0556 IEG POR

CASE No. _____

CLASS ACTION COMPLAINT

GLEN MOORE, an individual, on behalf
of himself, and on behalf of all persons
similarly situated,

Plaintiff,

vs.

IKON OFFICE SOLUTIONS, INC.,

Defendants.

1. UNFAIR COMPETITION IN
VIOLATION OF CAL. BUS. & PROF.
CODE § 17200, *et seq.*;

2. FAILURE TO PAY OVERTIME
COMPENSATION IN VIOLATION OF
CAL. LAB. CODE § 510, *et seq.*;

3. FAILURE TO PROVIDE
ACCURATE ITEMIZED STATEMENTS
IN VIOLATION OF CAL. LAB. CODE §
226

4. FAILURE TO PROVIDE
INDEMNIFICATION OF
EXPENDITURES IN VIOLATION OF
CAL. LAB. CODE § 2802; and,

5. FAILURE TO PAY
COMPENSATION IN VIOLATION OF
29 U.S.C. § 201, *et seq.*;

DEMAND FOR A JURY TRIAL

CR

1 Plaintiff Glen Moore, an individual, alleges upon information and belief, except for
2 his own acts and knowledge which are alleged based upon personal knowledge, the
3 following:

4
5 **PARTIES**

6 1. PLAINTIFF Glen Moore ("PLAINTIFF") was hired by Defendant IKON
7 Office Solutions, Inc. ("DEFENDANT" or "IKON") in 2003 to work as a "Customer
8 Service Technician" (hereinafter "Technician"). As a Technician, PLAINTIFF's principal
9 and primary job duties required the performance of manual labor in order to maintain and to
10 repair copiers leased by IKON to customers of IKON. To perform these services, Plaintiff
11 was required to drive and travel to the locations specified IKON, and order parts for the
12 performance of maintenance and repair of copiers for IKON's customers. In performing
13 these duties, PLAINTIFF did not and does not now utilize any independent discretion,
14 judgment, or management decisions with respect to matters of significance. To the contrary,
15 the work of PLAINTIFF as a Technician is to provide, on a daily basis, installation,
16 maintenance and repair services related to the copiers of IKON's customers in accordance
17 with the management decisions and business policies established by DEFENDANT. In fact,
18 no installation, maintenance or repair of a copier may be made by PLAINTIFF without first
19 obtaining approval and instructions from DEFENDANT. As a result, PLAINTIFF is
20 entitled to be classified as non-exempt from overtime laws and other applicable labor laws
21 and is entitled to be paid overtime as required by California law. DEFENDANT, however,
22 fails to pay PLAINTIFF the correct amount of overtime compensation because
23 DEFENDANT fails to accurately record and pay for all hours worked by PLAINTIFF and
24 other Technicians. DEFENDANTS fails to fully pay for all hours worked because (1) the
25 Service Call Activity Reports show that Technicians worked hours in excess of eight (8)
26 hours in a day and forty (40) hours in a workweek, but they are not paid overtime for all
27 such hours, (2) Technicians are required to work on call but are not paid overtime for the on-
28 call hours worked, which include time spent performing telephonic support, (3) hours

1 worked attending training and traveling are not recorded, and (4) time spent after normal
2 business hours preparing parts, orders and repairs for the next day's work is not recorded.

3 2. In addition, DEFENDANT has charged PLAINTIFF and other Technicians for
4 uniform equipment and failed to reimburse these employees for uniform equipment that is
5 used in the performance of Technician's job duties. As a result, DEFENDANT fails to
6 provide PLAINTIFF and other Technicians with the required reimbursement of business
7 expenses incurred by them in the performance of their job duties and according to the
8 policies of the DEFENDANT. Further, DEFENDANT fails to provide PLAINTIFF and
9 other Technician employees with an accurate wage statement in compliance with California
10 law, and even requires these employees to pay a charge to receive a wage statement, which
11 is still inaccurate when provided. Finally, upon the involuntary termination of
12 PLAINTIFF's employment, DEFENDANT failed to pay all wages due PLAINTIFF within
13 the time required by California law, and PLAINTIFF believes this policy of late payment
14 and/or non-payment of all wages due was also applied to other Technician employees.

15 2. Defendant IKON Office Solutions, Inc. is an Ohio Corporation, with its
16 headquarters and principal place of business in Pennsylvania. DEFENDANT maintains
17 offices throughout California, including offices in San Diego, Irvine, Los Angeles,
18 Sacramento, Bakersfield, San Francisco, Oakland and Walnut Creek. . DEFENDANT
19 conducted and continues to conduct substantial and regular business throughout California.
20 DEFENDANT is an enterprise engaged in commerce by engaging in the enterprise of the
21 transmission of electronic data through the interstate commerce and phone lines and in an
22 enterprise of the production of goods in connection with regularly and recurrently receiving
23 or transmitting interstate communications.

24 3. DEFENDANT represents that IKON Office Solutions, Inc., is a Ricoh
25 company and is a leading provider of innovative document management systems and
26 services, enabling customers to improve document workflow and increase efficiency.
27 DEFENDANT represents that DEFENDANT's business is to integrate copiers, printers and
28 MFP technologies, and document management software and systems, to deliver tailored,

1 high-value solutions, implemented and supported by its team of services professionals. To
2 provide this product, DEFENDANT represents that DEFENDANT “leverages the
3 manufacturing and engineering expertise of Ricoh, a \$22 billion global technology
4 innovator, with the experience and reach of its locally based sales and services teams, to
5 provide end-to-end solutions and one of the industry’s broadest portfolios of document
6 management services, including on-site and off-site managed services, technical service and
7 support, and customized workflow design and implementation.” Technicians are part of the
8 “locally based” “service teams” which help deliver the DEFENDANT’s product to
9 DEFENDANT’s clients. In order to provide the DEFENDANT’s product to clients and be
10 the largest and strongest document management company possible, DEFENDANT requires
11 a large pool of Technicians to perform the installation, repair and maintenance services for
12 the client’s copiers.

13 4. DEFENDANT was known as Alco Standard Corporation prior to its name
14 change to IKON in January 1997. Since the 1960s Alco was a holding company with
15 operations in a variety of industries including steel, gift and glassware, food service,
16 aerospace, paper and office products. By 1992, Alco was a distribution company with two
17 business groups—paper and office products. The paper business was spun off to Alco
18 shareholders in December 1996. Alco/IKON aggressively acquired businesses from fiscal
19 1994 to 1998, including traditional office equipment products and service providers,
20 outsourcing and imaging services companies and technology products and services
21 organizations. Beginning in fiscal 1999, IKON ceased its acquisition activity in North
22 America and began to transform from a decentralized holding company of more than 450
23 acquisitions to an integrated operating company focused on document management products
24 and services.

25 5. Beginning in 2000, IKON’s vision was to become the largest and strongest
26 independent document management channel in the world. In 2008, IKON was acquired by
27 Ricoh Company, Ltd., for \$1.62 billion. As a Ricoh company, IKON leverages the
28 manufacturing and engineering expertise of a global technology innovator like IKON, with

1 the experience and reach of its locally based sales and services teams, to provide end-to-end
2 solutions and one of the industry's broadest portfolios of document management services.
3 Ricoh is a global leader in digital office solutions, and Ricoh technology is designed to
4 empower businesses to improve critical processes, keep information secure, ensure
5 compliance and promote environmental sustainability while reducing the total cost of
6 ownership. IKON and Ricoh's strengths complement each other, creating an industry
7 powerhouse that can push innovation and customer service to new heights. The combined
8 strength of IKON and Ricoh strengthens their service offerings, reduces costs and increases
9 efficiency. In 2007, DEFENDANT's estimated revenues exceeded \$4 billion.

10 6. DEFENDANT's Technicians, like the PLAINTIFF, primarily perform manual
11 labor associated with the installation, repair and maintenance of copiers at locations
12 specified by the DEFENDANT. These services consist of (i) receiving DEFENDANT's
13 instructions, (ii) reviewing repair procedures and ordering parts, (iii) driving to the specified
14 location, (iv) performing billing procedures, (v) installing, repairing and/or maintaining
15 copiers by cleaning, diagnosing, lifting, assembling and repairing the copiers, and (v)
16 performing troubleshooting of the customer's problems. These duties require Technicians to
17 utilize safety equipment and other tools in the performance of their job. In order to meet the
18 requirements of the DEFENDANT's service standards, DEFENDANT's Technicians are
19 working during the week, remaining on-call and handling telephonic support, and
20 performing services at multiple customer premises, all at the direction of the DEFENDANT.
21 DEFENDANT then pays salary compensation to the Technicians, but fail to pay the required
22 amount of additional premium or overtime pay for the above job duties when the
23 Technician's work performed exceeds eight hours in a day, forty hours in a week or occurs
24 on the seventh consecutive day in a work week.

25 7. The Defendant named in this Complaint operated by and through certain
26 agents, servants, employees and/or other responsible persons, and each such person was
27 acting within the course of scope of his or her authority as the agent, servant and/or
28 employee of Defendant and each of the other. Consequently, the Defendant named herein

1 and all such agents, servants, employees and/or other responsible persons and each such
2 person are jointly and severally liable to the PLAINTIFF and the other members of the
3 CALIFORNIA CLASS, for the losses sustained as a proximate result of DEFENDANT'S
4 conduct as herein alleged.

5
6 **CONDUCT**

7 8. Plaintiff Glen Moore ("PLAINTIFF") was first employed by DEFENDANT in
8 the capacity of a Technician in or around December 1995 and continued to be employed as a
9 Technician until DEFENDANT terminated his employment in February 2009. PLAINTIFF
10 and the other Technicians work and worked as a service team member on the production
11 side of DEFENDANT's business. The primary job duties of PLAINTIFF and other
12 Technicians are to perform manual labor in order to install, configure and repair copier
13 equipment at the direction of DEFENDANT. As a result of this work, PLAINTIFF was
14 primarily involved in providing day to day routine installation, maintenance and repair of
15 copier equipment at business locations specified by DEFENDANT. This work was executed
16 primarily by the performance of manual labor within a defined skill set, involving the
17 routing of wiring, cleaning of equipment, the replacement of parts and the execution of
18 paperwork and orders, pursuant to standardized protocol and training followed by these
19 employees. Physical demands of the position include standing, sitting, walking, bending,
20 lifting, drilling, and moving equipment, which work DEFENDANT have admits is non-
21 exempt work. As a result, the Technician position is a non-exempt position and was in fact
22 classified as non-exempt by the DEFENDANT. PLAINTIFF performed these tasks by
23 traveling to off-site locations as directed by DEFENDANT in his own vehicle. Since 2005,
24 PLAINTIFF, as a Technician on the production side of his service team, worked overtime
25 but was not fully paid the overtime compensation to which he was entitled because of
26 DEFENDANT's systematic failure to pay for all time spent working, preparing, training and
27 traveling. By failing to correctly record and pay for all hours worked, DEFENDANT
28 systematically underpaid overtime compensation to Technician employees for their hours

1 worked and even for documented overtime hours worked. As a result, PLAINTIFF worked
2 more than eight (8) hours a day, forty (40) hours a week, and/or on the seventh (7th)
3 consecutive day of a workweek but was not fully compensated for these hours of overtime
4 work as required by law.

5 9. In addition, as a condition of employment, DEFENDANT required
6 PLAINTIFF and the other Technicians to wear uniforms for which they were required to
7 purchase uniform equipment from DEFENDANT and for which no reimbursement was
8 provided. DEFENDANT also has a policy of charging PLAINTIFF and the other
9 Technicians to receive a wage statement in writing, even though DEFENDANT is required
10 to furnish one under Cal. Labor Code § 226(a). As a direct consequence and requirement of
11 performing their work duties for the DEFENDANT, PLAINTIFF and other Technicians
12 incur business expenses for which DEFENDANT refuses to provide reimbursement as
13 required by law. The business expenses incurred by Technicians include mileage and
14 charges for equipment required by DEFENDANT to perform the duties assigned by
15 DEFENDANT. PLAINTIFF and other Technicians are required to incur these expenses to
16 perform their job duties but DEFENDANT has established no procedure to provide full
17 reimbursement of these expenses to employees and has refused to provide full
18 reimbursement.

19 10. Individuals in these Technician positions are and were employees who are
20 entitled to regular, and overtime compensation and prompt payment of amounts that the
21 employer owes an employee when the employee quits or is terminated, and other
22 compensation and working conditions that are prescribed by law. Although DEFENDANT
23 requires their employees employed as Technicians, and other similarly situated positions, to
24 work more than forty (40) hours a week, eight (8) hours in a workday, and /or on the seventh
25 (7th) consecutive day of a workweek, as a matter of company policy and practice,
26 DEFENDANT consistently and uniformly denies them the correct overtime compensation
27 that the law requires. The PLAINTIFF and known members of the CLASS work or worked
28 in California and DEFENDANT'S practices and procedures are and were common

1 throughout California.

2 11. Plaintiff Glen Moore ("PLAINTIFF") brings this class action on behalf of
3 himself and a California class consisting of all individuals who are or previously were
4 employed by Defendant IKON Office Solutions, Inc. (hereinafter referred to as
5 "DEFENDANT") in a staff position as a Customer Service Technician, or in any other
6 similarly situated position ("Technicians") (the "CALIFORNIA CLASS"). The class period
7 applicable to this CALIFORNIA CLASS is the period beginning four years prior to the
8 filing of this Complaint and ending on the date of as determined by the Court (the "CLASS
9 PERIOD"). As a matter of company policy and practice, DEFENDANT has unlawfully,
10 unfairly and deceptively failed to pay the required overtime compensation and otherwise
11 failed to comply with all labor laws with respect to these Technicians.

12 12. In this action, PLAINTIFF, on behalf of himself and the CALIFORNIA
13 CLASS, seeks to recover all the compensation that DEFENDANT was required by law to
14 provide, but failed to provide, to PLAINTIFF and all other CALIFORNIA CLASS
15 members. PLAINTIFF also seeks penalties and all other relief available to him and other
16 similarly situated employees under California law. Finally, PLAINTIFF seeks declaratory
17 relief finding that the employment practices and policies of the DEFENDANT violate
18 California law and injunctive relief to enjoin the DEFENDANT from continuing to engage
19 in such employment practices.

20 13. In performing the conduct herein alleged, the DEFENDANT also uniformly
21 misrepresented to the PLAINTIFF and the other members of the CALIFORNIA CLASS that
22 they were required to purchase things of value from DEFENDANT and that they would be
23 paid overtime in accordance with applicable state and federal labor laws, when in fact, they
24 were not. The DEFENDANT's wrongful conduct and violations of law as herein alleged
25 demeaned and wrongfully deprived PLAINTIFF and the other members of the CLASS of
26 money and career opportunities to which they were lawfully entitled. DEFENDANT
27 engaged in such wrongful conduct by failing to have adequate employment policies and
28 maintaining adequate employment practices consistent with such policies and the applicable

1 law. DEFENDANT's wrongful conduct as herein alleged caused the money belonging to
2 the PLAINTIFF and the other members of the CLASS to be kept by DEFENDANT and
3 thereby converted by DEFENDANT for DEFENDANT's own use.

4 14. Classified and treated by DEFENDANT as non-exempt at the time of hire and
5 thereafter, PLAINTIFF, and all other members of the similarly- situated CALIFORNIA
6 CLASS, are in fact not exempt under Industrial Welfare Commission Wage Order 4-2001
7 and Cal. Lab. Code §§ 515 of 515.5, and therefore are entitled to overtime and the protection
8 of all other labor laws. Despite the undeniable fact that PLAINTIFF, and all other members
9 of the similarly- situated CALIFORNIA CLASS, are in fact not exempt, DEFENDANT
10 failed to comply with the applicable requirements imposed by the California Labor Code and
11 the Wage Order with respect to the calculation of overtime, accurate statements, expense
12 reimbursement, wage deductions, and the required purchase of a thing in value by
13 employees. DEFENDANT's practices violated and continue to violate the law, regardless of
14 whether the employees' work is paid by commission, by salary, by piece rate, or by part
15 commission, part piece rate, and/or part salary. As a result of this policy and practice,
16 DEFENDANT fails to pay overtime in accordance with applicable law.

17 15. Accordingly, DEFENDANT committed acts of unfair competition in violation
18 of the California Unfair Competition Law, Cal. Bus. & Prof. Code § 17200, by engaging in
19 company-wide policies and procedures which failed to correctly pay all required overtime
20 compensation for all work performed by Technician employees, compelled and/or coerced
21 employees to purchase equipment in violation of Labor Code 450, imposed equipment
22 deductions from employee wages, failed to indemnify employees for all expenses incurred in
23 direct consequence of the performance of their duties, and violated the California Labor
24 Code and regulations promulgated thereunder as herein alleged.

25 16. PLAINTIFF has no plain, speedy or adequate remedy at law and will suffer
26 irreparable injury if DEFENDANT is permitted to continue to engage in the unlawful acts
27 and practices herein alleged. The illegal conduct alleged herein is continuing and to prevent
28 future injury and losses, and to avoid a multiplicity of lawsuits, PLAINTIFF is entitled to an

1 injunction and other equitable relief, on behalf of himself and the CLASS, to prevent and
2 enjoin such practices. PLAINTIFF therefore requests a preliminary and/or permanent
3 injunction as the DEFENDANT provides no indication that DEFENDANT will not continue
4 such activity in the future, along with restitution, penalties, interest, compensation and other
5 equitable relief as provided by law.

6
7 **THE CALIFORNIA CLASS**

8 17. PLAINTIFF brings this action on behalf of the CALIFORNIA CLASS which
9 consists of all employees of DEFENDANT in California who were, are, or will be employed
10 as Technicians during the period four years prior to the filing of this Complaint and ending
11 on the date as determined by the Court ("CLASS PERIOD"). To the extent equitable tolling
12 operates to toll claims by the CALIFORNIA CLASS against DEFENDANT, the CLASS
13 PERIOD should be adjusted accordingly. The CALIFORNIA CLASS includes all such
14 persons, whether or not they were paid hourly, by commission, by salary, by piece rate, or by
15 part hourly, part commission, part piece rate, and/or part salary.

16 18. DEFENDANT, as a matter of corporate policy, practice and procedure, and in
17 violation of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage
18 Order Requirements, and the applicable provisions of California law, intentionally,
19 knowingly, and wilfully, engaged in a practice whereby DEFENDANT knows the exact
20 hours the CALIFORNIA CLASS members worked at each location as a result of job activity
21 records but uses an unlawful, unfair and deceptive salary method which failed to pay all
22 required overtime compensation, including overtime compensation owed to the PLAINTIFF
23 and the other members of the CALIFORNIA CLASS, failed to provide accurate itemized
24 statements to the CALIFORNIA CLASS, compelled the CALIFORNIA CLASS to purchase
25 things of value as a condition of employment, deducted equipment charges from their
26 wages, and failed to provide the CALIFORNIA CLASS with indemnification and/or
27 reimbursement of business expenses incurred by employees as a direct consequence of the
28 discharge of their duties.

1 19. DEFENDANT, as a matter of corporate policy, practice and procedure,
2 classified all Technicians as non-exempt from overtime wages and other labor laws, and
3 therefore are legally required to pay overtime as required by law and comply with all other
4 labor laws and regulations with respect to these employees. All Technicians, including the
5 PLAINTIFF, performed the same primary functions and were paid by DEFENDANT
6 according to uniform and systematic company procedures, which, as alleged herein above,
7 failed to correctly pay overtime compensation, failed to provide business expense
8 reimbursement, compelled all Technician employees to purchase equipment from the
9 DEFENDANT, and imposed deductions on their employees paychecks. This business
10 practice was uniformly applied to each and every member of the CALIFORNIA CLASS,
11 and therefore, the propriety of these business practices can be adjudicated on a class-wide
12 basis.

13 20. DEFENDANT uniformly violated the rights of the CALIFORNIA CLASS
14 under California law by:

- 15 (a) Violating the California Unfair Competition Laws, Cal. Bus. & Prof.
16 Code § 17200, *et seq.*, by unlawfully, unfairly and deceptively having
17 in place company policies, practices and procedures that uniformly
18 denied Plaintiffs and the members of the CALIFORNIA CLASS the
19 correct overtime pay and otherwise violated applicable law;
- 20 (b) Committing an act of unfair competition in violation of the California
21 Unfair Competition Laws, Cal. Bus. & Prof. Code § 17200 *et seq.*, by
22 failing to pay PLAINTIFF and the members of the CALIFORNIA
23 CLASS the correct overtime pay for a workweek longer than forty (40)
24 hours, for hours worked in a day in excess of eight (8), and/or for hours
25 worked on the seventh consecutive day of a workweek;
- 26 (c) Committing an act of unfair competition in violation of the California
27 Unfair Competition Laws, Cal. Bus. & Prof. Code §§ 17200 *et seq.*, by
28 misrepresenting the applicable overtime compensation amount to the

1 CALIFORNIA CLASS;

- 2 (d) Committing an act of unfair competition in violation of the California
3 Unfair Competition Laws, Cal. Bus. & Prof. Code § 17200 *et seq.*, by
4 failing to pay PLAINTIFF and the members of the CALIFORNIA
5 CLASS the correct overtime pay in contravention of California law;
- 6 (e) Violating Cal. Lab. Code § 226, by failing to provide PLAINTIFF and
7 the members of the CALIFORNIA CLASS with an accurate itemized
8 statement in writing showing the gross wages earned, the net wages
9 earned, all applicable hourly rates in effect during the pay period and
10 the corresponding number of hours worked at each hourly rate by the
11 employee; and,
- 12 (f) Violating Cal. Lab. Code §§ 450, 221 and 2802, by compelling and/or
13 coercing PLAINTIFF and the members of the CALIFORNIA CLASS
14 to purchase equipment and wage statements as a condition of
15 employment, by making deductions from their wages for this
16 equipment, and by failing to pay indemnification to PLAINTIFF and
17 the members of the CALIFORNIA CLASS for business expenses
18 incurred as a consequence of performing their work for DEFENDANT.

19 21. This Class Action meets the statutory prerequisites for the maintenance of a
20 Class Action as set forth in Fed. R. Civ. P., rule 23, in that:

- 21 (a) The persons who comprise the CALIFORNIA CLASS exceed 100
22 persons and are therefore so numerous that the joinder of all such
23 persons is impracticable and the disposition of their claims as a class
24 will benefit the parties and the Court;
- 25 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief
26 issues that are raised in this Complaint are common to the
27 CALIFORNIA CLASS will apply uniformly to every member of the
28 CALIFORNIA CLASS;

1 (c) The claims of the representative PLAINTIFF are typical of the claims
2 of each member of the CALIFORNIA CLASS. PLAINTIFF, like all
3 other members of the CALIFORNIA CLASS, was compelled to
4 purchase equipment from DEFENDANT as a condition of employment,
5 was denied reimbursement of business expenses incurred, was
6 subjected to DEFENDANT's illegal practice of failing to pay overtime
7 compensation for all hours worked. PLAINTIFF sustained economic
8 injury as a result of DEFENDANT's employment practices.
9 PLAINTIFF and the members of the CALIFORNIA CLASS were and
10 are similarly or identically harmed by the same unlawful, deceptive,
11 unfair and pervasive pattern of misconduct engaged in by the
12 DEFENDANT; and,

13 (d) The representative PLAINTIFF will fairly and adequately represent and
14 protect the interest of the CALIFORNIA CLASS, and has retained
15 counsel who are competent and experienced in Class Action litigation.
16 There are no material conflicts between the claims of the representative
17 PLAINTIFF and the members of the CALIFORNIA CLASS that would
18 make class certification inappropriate. Counsel for the CALIFORNIA
19 CLASS will vigorously assert the claims of all Class Members.

20 22. In addition to meeting the statutory prerequisites to a Class Action, this action
21 is properly maintained as a Class Action pursuant to Fed. R. Civ. P., rule 23, in that:

22 (a) Without class certification and determination of declaratory, injunctive,
23 statutory and other legal questions within the class format, prosecution
24 of separate actions by individual members of the CALIFORNIA
25 CLASS will create the risk of:

- 26 1) Inconsistent or varying adjudications with respect to individual
27 members of the CALIFORNIA CLASS which would establish
28 incompatible standards of conduct for the parties opposing the

CALIFORNIA CLASS; and/or,

2) Adjudication with respect to individual members of the CALIFORNIA CLASS which would as a practical matter be dispositive of interests of the other members not party to the adjudication or substantially impair or impede their ability to protect their interests.

(b) The parties opposing the CALIFORNIA CLASS have acted or refused to act on grounds generally applicable to the CALIFORNIA CLASS, making appropriate class-wide relief with respect to the CALIFORNIA CLASS as a whole in that the DEFENDANT practices and policies alleged herein were systematically and uniformly applied to all Technician employees;

1) With respect to the First Cause of Action, the final relief on behalf of the CALIFORNIA CLASS sought does not relate exclusively to restitution because through this claim Plaintiff seeks declaratory relief holding that the DEFENDANT's policy and practices constitute unfair competition, along with declaratory relief, injunctive relief, and incidental equitable relief as may be necessary to prevent and remedy the conduct declared to constitute unfair competition;

(c) Common questions of law and fact exist as to the members of the CALIFORNIA CLASS, with respect to the practices and violations of California Law as listed above, and predominate over any question affecting only individual members, and a Class Action is superior to other available methods for the fair and efficient adjudication of the controversy, including consideration of:

1) The interests of the members of the CALIFORNIA CLASS in individually controlling the prosecution or defense of separate

actions;

- 2) The extent and nature of any litigation concerning the controversy already commenced by or against members of the CALIFORNIA CLASS;
- 3) The desirability or undesirability of concentrating the litigation of the claims in the particular forum;
- 4) The difficulties likely to be encountered in the management of a Class Action; and,
- 5) The basis of DEFENDANT's conduct towards PLAINTIFF and the CALIFORNIA CLASS.

23. This Court should permit this action to be maintained as a Class Action pursuant to Fed. R. Civ. P., rule 23 because:

- (a) The questions of law and fact common to the CALIFORNIA CLASS predominate over any question affecting only individual members because the DEFENDANT's employment practices were uniform and systematically applied with respect to the CALIFORNIA CLASS;
- (b) A Class Action is superior to any other available method for the fair and efficient adjudication of the claims of the members of the CALIFORNIA CLASS because in the context of employment litigation a substantial number of individual Class members will avoid asserting their rights individually out of fear of retaliation or adverse impact on their employment;
- (c) The members of the CALIFORNIA CLASS exceed 100 people and are therefore so numerous that it is impractical to bring all members of the CALIFORNIA CLASS before the Court;
- (d) PLAINTIFF, and the other CALIFORNIA CLASS members, will not be able to obtain effective and economic legal redress unless the action is maintained as a Class Action;

- 1 (e) There is a community of interest in obtaining appropriate legal and
2 equitable relief for the acts of unfair competition, statutory violations
3 and other improprieties, and in obtaining adequate compensation for
4 the damages and injuries which DEFENDANT's actions have inflicted
5 upon the CALIFORNIA CLASS;
- 6 (f) There is a community of interest in ensuring that the combined assets of
7 DEFENDANT are sufficient to adequately compensate the members of
8 the CALIFORNIA CLASS for the injuries sustained;
- 9 (g) DEFENDANT has acted or refused to act on grounds generally
10 applicable to the CALIFORNIA CLASS, thereby making final class-
11 wide relief appropriate with respect to the CALIFORNIA CLASS as a
12 whole;
- 13 (h) The members of the CALIFORNIA CLASS are readily ascertainable
14 from the business records of DEFENDANT. The CALIFORNIA
15 CLASS consists of all DEFENDANT's Technicians employed in
16 California during the CLASS PERIOD; and,
- 17 (i) Class treatment provides manageable judicial treatment calculated to
18 bring a efficient and rapid conclusion to all litigation of all wage and
19 hour related claims arising out of the conduct of DEFENDANT as to
20 the members of the CALIFORNIA CLASS.

21 24. DEFENDANT maintains records from which the Court can ascertain and
22 identify, by job title and name, each of DEFENDANT's employees who as have been
23 systematically, intentionally and uniformly subjected to DEFENDANT's corporate policy,
24 practices and procedures as herein alleged. The records of DEFENDANT will identify
25 which employees failed to receive compensation for all hours worked, were compelled to
26 purchase equipment, which employees had deductions from their wages and incurred
27 business expenses but did not receive reimbursement. PLAINTIFF will seek leave to amend
28 the complaint to include any additional job titles of similarly situated employees when they

1 have been identified.

2
3 **THE CALIFORNIA LABOR SUBCLASS**

4 25. PLAINTIFF also brings this action on behalf of a subclass which consists of
5 all members of the CALIFORNIA CLASS with documented overtime hours that were
6 subjected to the DEFENDANT'S incomplete payment practices (the "CALIFORNIA
7 LABOR SUBCLASS"). To the extent equitable tolling operates to toll claims by the
8 CALIFORNIA LABOR SUBCLASS against DEFENDANT, the Class period should be
9 adjusted accordingly. The CALIFORNIA LABOR SUBCLASS includes all such persons,
10 whether or not they were paid hourly, by commission, by salary, by piece rate, or part
11 hourly, by part commission, part piece rate, and/or part salary.

12 26. DEFENDANT, as a matter of corporate policy, practice and procedure, and in
13 violation of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage
14 Order Requirements, and the applicable provisions of federal law, intentionally, knowingly,
15 and wilfully, engaged in a practice whereby DEFENDANT fails to pay all compensation
16 owed for hours worked in excess of 8 in a day, 40 in a week, or on the seventh consecutive
17 day of a work week, including the overtime compensation owed to the PLAINTIFF and the
18 other members of the CALIFORNIA LABOR SUBCLASS, failed to provide accurate
19 itemized statements to the CALIFORNIA LABOR SUBCLASS, compelled the
20 CALIFORNIA LABOR SUBCLASS to purchase things of value as a condition of
21 employment, deducted equipment charges from their wages, and failed to provide the
22 CALIFORNIA LABOR SUBCLASS with indemnification and/or reimbursement of
23 business expenses incurred by employees as a direct consequence of the discharge of their
24 duties.

25 27. DEFENDANT, as a matter of corporate policy, practice and procedure,
26 classified all Technicians as non-exempt from overtime wages and other labor laws, and
27 therefore are legally required to pay overtime as required by law and comply with all other
28 labor laws and regulations with respect to these employees. All Technicians, including the

1 PLAINTIFF, performed the same primary functions and were paid by DEFENDANT
2 according to uniform and systematic company procedures, which, as alleged herein above,
3 failed to correctly pay overtime compensation, failed to provide business expense
4 reimbursement, compelled all Technician employees to purchase equipment from the
5 DEFENDANT, and imposed deductions on their employees paychecks for such equipment
6 purchases. This business practice was uniformly applied to each and every member of the
7 CALIFORNIA LABOR SUBCLASS, and therefore, the propriety of this conduct can be
8 adjudicated on a classwide basis.

9 28. DEFENDANT violated the rights of the CALIFORNIA LABOR SUBCLASS
10 under California law by:

- 11 (a) Violating Cal. Lab. Code § 510 by failing to pay PLAINTIFF and the
12 members of the SUBCLASS the correct overtime pay for a work day
13 longer than eight (8) hours and/or a workweek longer than forty (40)
14 hours, and also for all hours worked on the seventh (7th) consecutive
15 day of a workweek for which DEFENDANT is liable pursuant to Cal.
16 Lab. Code § 1194; and
- 17 (b) Violating Cal. Lab. Code § 201 and/or § 202, which provides that when
18 an employee is discharged or quits from employment, the employer
19 must pay the employee all wages due without abatement, by failing to
20 tender full payment and/or restitution of wages owed or in the manner
21 required by California law to the members of the CALIFORNIA
22 LABOR SUBCLASS who have terminated their employment.

23 29. This Class Action meets the statutory prerequisites for the maintenance of a
24 Class Action as set forth in Fed. R. Civ. P., rule 23, in that:

- 25 (a) The persons who comprise the CALIFORNIA LABOR SUBCLASS
26 exceed 100 individuals and are therefore so numerous that the joinder
27 of all such persons is impracticable and the disposition of their claims
28 as a class will benefit the parties and the Court;

- 1 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief
2 issues that are raised in this Complaint are common to the
3 CALIFORNIA LABOR SUBCLASS and will apply uniformly to every
4 member of the CALIFORNIA LABOR SUBCLASS;
- 5 (c) The claims of the representative PLAINTIFF are typical of the claims
6 of each member of the CALIFORNIA LABOR SUBCLASS.
7 PLAINTIFF, like all other members of the CALIFORNIA LABOR
8 SUBCLASS, was compelled to purchase equipment from
9 DEFENDANT as a condition of employment, was denied
10 reimbursement of business expenses incurred, and did not receive
11 overtime for all hours worked in excess of 8 in a day, 40 in a week or
12 on the seventh consecutive workday of a workweek. PLAINTIFF and
13 all other members of the CALIFORNIA LABOR SUBCLASS
14 sustained economic injuries arising from DEFENDANT's violations of
15 the laws of California. PLAINTIFF and the members of the
16 CALIFORNIA LABOR SUBCLASS were and are similarly or
17 identically harmed by the same unlawful, deceptive, unfair and
18 pervasive pattern of misconduct engaged in by the DEFENDANT; and,
- 19 (d) The representative PLAINTIFF will fairly and adequately represent and
20 protect the interest of the CALIFORNIA LABOR SUBCLASS, and has
21 retained counsel who are competent and experienced in Class Action
22 litigation. There are no material conflicts between the claims of the
23 representative PLAINTIFF and the members of the CALIFORNIA
24 LABOR SUBCLASS that would make class certification inappropriate.
25 Counsel for the CALIFORNIA LABOR SUBCLASS will vigorously
26 assert the claims of all Class Members.

27 30. In addition to meeting the statutory prerequisites to a Class Action, this action
28 is properly maintained as a Class Action pursuant to Fed. R. Civ. P., rule 23, in that:

- 1 (a) Without class certification and determination of declaratory, injunctive,
2 statutory and other legal questions within the class format, prosecution
3 of separate actions by individual members of the CALIFORNIA
4 LABOR SUBCLASS will create the risk of:
- 5 1) Inconsistent or varying adjudications with respect to individual
6 members of the CALIFORNIA LABOR SUBCLASS which
7 would establish incompatible standards of conduct for the
8 parties opposing the CALIFORNIA LABOR SUBCLASS; or,
9 2) Adjudication with respect to individual members of the
10 CALIFORNIA LABOR SUBCLASS which would as a practical
11 matter be dispositive of interests of the other members not party
12 to the adjudication or substantially impair or impede their ability
13 to protect their interests.
- 14 (b) The parties opposing the CALIFORNIA CLASS have acted or refused
15 to act on grounds generally applicable to the CALIFORNIA CLASS,
16 making appropriate class-wide relief with respect to the CALIFORNIA
17 CLASS as a whole in that the DEFENDANT compelled these
18 employees to purchase equipment from DEFENDANT as a condition
19 of employment, denied these employees reimbursement of business
20 expenses incurred, and incorrectly paid these employees overtime
21 compensation for all hours worked as a result of DEFENDANT's
22 systematic practices and policies;
- 23 (c) Common questions of law and fact exist as to the members of the
24 CALIFORNIA LABOR SUBCLASS, with respect to the practices and
25 violations of California Law as listed above, and predominate over any
26 question affecting only individual members, and a Class Action is
27 superior to other available methods for the fair and efficient
28 adjudication of the controversy, including consideration of:

- 1) The interests of the members of the CALIFORNIA LABOR SUBCLASS in individually controlling the prosecution or defense of separate actions;
- 2) The extent and nature of any litigation concerning the controversy already commenced by or against members of the CALIFORNIA LABOR SUBCLASS;
- 3) The desirability or undesirability of concentrating the litigation of the claims in the particular forum;
- 4) The difficulties likely to be encountered in the management of a Class Action; and,
- 5) The basis of DEFENDANT's conduct towards PLAINTIFF and the CALIFORNIA LABOR SUBCLASS.

31. This Court should permit this action to be maintained as a Class Action pursuant to Fed. R. Civ. P., rule 23 because:

- (a) The questions of law and fact common to the CALIFORNIA LABOR SUBCLASS predominate over any question affecting only individual members;
- (b) A Class Action is superior to any other available method for the fair and efficient adjudication of the claims of the members of the CALIFORNIA LABOR SUBCLASS because in the context of employment litigation a substantial number of individual Class members will avoid asserting their rights individually out of fear of retaliation or adverse impact on their employment;
- (c) The members of the CALIFORNIA LABOR SUBCLASS exceed 100 individuals and are therefore so numerous that it is impractical to bring all members of the CALIFORNIA LABOR SUBCLASS before the Court;
- (d) PLAINTIFF, and the other CALIFORNIA LABOR SUBCLASS

members, will not be able to obtain effective and economic legal redress unless the action is maintained as a Class Action;

- (e) There is a community of interest in obtaining appropriate legal and equitable relief for the acts of unfair competition, statutory violations and other improprieties, and in obtaining adequate compensation for the damages and injuries which DEFENDANT's actions have inflicted upon the CALIFORNIA LABOR SUBCLASS;
- (f) There is a community of interest in ensuring that the combined assets of DEFENDANT are sufficient to adequately compensate the members of the CALIFORNIA LABOR SUBCLASS for the injuries sustained;
- (g) DEFENDANT has acted or refused to act on grounds generally applicable to the CALIFORNIA LABOR SUBCLASS, thereby making final class-wide relief appropriate with respect to the CALIFORNIA LABOR SUBCLASS as a whole;
- (h) The members of the CALIFORNIA LABOR SUBCLASS are readily ascertainable from the business records of DEFENDANT. The CALIFORNIA LABOR SUBCLASS consists of those Technicians who worked overtime but were subjected to the DEFENDANT's overtime practices; and,
- (i) Class treatment provides manageable judicial treatment calculated to bring a efficient and rapid conclusion to all litigation of all wage and hour related claims arising out of the conduct of DEFENDANT as to the members of the CALIFORNIA CLASS.

32. DEFENDANT maintains records from which the Court can ascertain and identify by job title each of DEFENDANT's employees who as have been systematically, intentionally and uniformly subjected to DEFENDANT's corporate policy, practices and procedures as herein alleged. The records of DEFENDANT will identify which employees worked overtime and the overtime compensation payment made, if any, by DEFENDANT

1 for such overtime work. PLAINTIFF will seek leave to amend the complaint to include any
2 additional job titles of similarly situated employees when they have been identified.

3 4 JURISDICTION AND VENUE

5 33. This Court has jurisdiction over this action pursuant to 29 U.S.C. § 216(b)
6 (Fair Labor Standards Act), 28 U.S.C. § 1331 (federal question jurisdiction), 28 U.S.C. §
7 1367 (supplemental jurisdiction), and 28 U.S.C. § 1332 (CAFA Jurisdiction). The action is
8 brought as a class action pursuant to Fed. R. Civ. Proc, Rule 23 on behalf of a class that
9 exceeds 100 people, that involves more than \$5,000,000 in controversy, and where the
10 citizenship of at least one member of the class is diverse from that of DEFENDANT.
11 PLAINTIFF's citizenship is diverse from that of DEFENDANT, and one or more of the
12 members of the CLASS reside outside of Ohio and Pennsylvania.

13 34. Venue is proper in this Court and judicial district pursuant to 28 U.S.C. § 1391
14 because (i) DEFENDANT conducts and conducted substantial business within this judicial
15 district and maintains offices in this judicial district, (ii) the causes of action alleged herein
16 arose in whole or in part in this judicial district, (iii) DEFENDANT committed wrongful
17 conduct against members of the class in this district, (iv) DEFENDANT is subject to
18 personal jurisdiction in this judicial district.

19 20 FIRST CAUSE OF ACTION

21 **For Unlawful, Unfair and Deceptive Business Practices**

22 **[Cal. Bus. And Prof. Code § 17200 et seq.]**

23 **(By PLAINTIFF and the CALIFORNIA CLASS and against All Defendants)**

24 35. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege
25 and incorporate by this reference, as though fully set forth herein, paragraphs 1 through 34
26 of this Complaint. This cause of action is brought on behalf of PLAINTIFF and the
27 CALIFORNIA CLASS.

28 36. DEFENDANT is "persons" as that term is defined under California Business

1 & Professions Code § 17021.

2 37. California Business & Professions Code § 17200 *et seq.* (the “UCL”) defines
3 unfair competition as any unlawful, unfair, or fraudulent business act or practice. Section
4 17203 authorizes injunctive, declaratory, and/or other equitable relief with respect to unfair
5 competition as follows:

6 Any person who engages, has engaged, or proposes to engage in unfair
7 competition may be enjoined in any court of competent jurisdiction. The court
8 may make such orders or judgments, including the appointment of a receiver,
9 as may be necessary to prevent the use or employment by any person of any
practice which constitutes unfair competition, as defined in this chapter, or as
may be necessary to restore to any person in interest any money or property,
real or personal, which may have been acquired by means of such unfair
competition.

10 California Business & Professions Code § 17203.

11 38. By the conduct alleged herein, DEFENDANT has engaged in a business
12 practice which violates federal and California law, including but not limited to provisions of
13 the Wage Orders, the Regulations implementing the Fair Labor Standards Act as enacted by
14 the Secretary of Labor, the California Labor Code, the Code of Federal Regulations and the
15 California Code of Regulations, the opinions of the Department of Labor Standards
16 Enforcement, California Labor Code §201, § 202, § 226(a), §450, §510, and/or §2802, for
17 which this Court should issue declaratory, injunctive and other equitable relief, pursuant to
18 Cal. Bus. & Prof. Code § 17203, as may be necessary to prevent and remedy the conduct
19 held to constitute unfair competition.

20 39. By and through the unfair and unlawful business practices described herein
21 above, DEFENDANT has obtained valuable property, money, and services from the
22 PLAINTIFF, and the other members of the CLASS, and has deprived them of valuable
23 rights and benefits guaranteed by law, all to their detriment and to the benefit of
24 DEFENDANT so as to allow DEFENDANT to unfairly compete. Declaratory and
25 injunctive relief is necessary to prevent and remedy this unfair competition, and pecuniary
26 compensation alone would not afford adequate and complete relief.

27 40. All the acts described herein as violations of, among other things, the Cal.
28

1 Lab. Code, California Code of Regulations, and the Industrial Welfare Commission Wage
2 Orders, are unlawful, are in violation of public policy, are immoral, unethical, oppressive,
3 and unscrupulous, and are likely to deceive employees, and thereby constitute deceptive,
4 unfair and unlawful business practices in violation of Cal. Bus. and Prof. Code § 17200 *et*
5 *seq.*

6 41. PLAINTIFF, and the other members of the CALIFORNIA CLASS, are further
7 entitled to, and do, seek a declaration that the above described business practices are
8 deceptive unfair and/or unlawful and that an injunctive relief should be issued restraining
9 DEFENDANT from engaging in any of these deceptive, unfair and unlawful business
10 practices in the future.

11 42. PLAINTIFF, and the other members of the CALIFORNIA CLASS, have no
12 plain, speedy, and/or adequate remedy at law that will end the unfair and unlawful business
13 practices of DEFENDANT. Further, the practices herein alleged presently continue to occur
14 unabated. As a result of the unfair and unlawful business practices described above,
15 PLAINTIFF, and the other members of the CALIFORNIA CLASS, have suffered and will
16 continue to suffer irreparable harm unless DEFENDANT is restrained from continuing to
17 engage in these unfair and unlawful business practices. In addition, DEFENDANT should
18 be required to disgorge the unpaid moneys to PLAINTIFF, and the other members of the
19 CALIFORNIA CLASS.

20
21 **SECOND CAUSE OF ACTION**

22 **For Failure To Pay Overtime Compensation**

23 **[Cal. Lab. Code §§ 510, 515.5, 1194 and 1198]**

24 **(By PLAINTIFF and the CALIFORNIA LABOR SUBCLASS and Against all**
25 **Defendants)**

26 43. PLAINTIFF, and the other members of the CALIFORNIA LABOR
27 SUBCLASS, reallege and incorporate by this reference, as though fully set forth herein,
28 paragraphs 1 through 42 of this Complaint. This cause of action is brought on behalf of

1 PLAINTIFF and the CALIFORNIA LABOR SUBCLASS for the period which begins three
2 years before the filing of this Complaint and continuing to the present.

3 44. Cal. Lab. Code § 510 states in relevant part:

4 Eight hours of labor constitutes a day's work. Any work in excess of eight
5 hours in one workday and any work in excess of 40 hours in any one
6 workweek and the first eight hours worked on the seventh day of work in any
7 one workweek shall be compensated at the rate of no less than one and one-
8 half times the regular rate of pay for an employee. Any work in excess of 12
9 hours in one day shall be compensated at the rate of no less than twice the
10 regular rate of pay for an employee. In addition, any work in excess of eight
11 hours on any seventh day of a workweek shall be compensated at the rate of
12 no less than twice the regular rate of pay of an employee.

13 45. Cal. Lab. Code § 1194 states:

14 "Notwithstanding any agreement to work for a lesser wage, any employee
15 receiving less than the legal minimum wage or the legal overtime
16 compensation applicable to the employee is entitled to recover in a civil action
17 the unpaid balance of the full amount of this minimum wage or overtime
18 compensation, including interest thereon, reasonable attorney's fees, and costs
19 of suit."

20 46. In addition, Labor Code Section 558 provides:

21 (a) Any employer or other person acting on behalf of an employer who
22 violates, or
23 causes to be violated, a section of this chapter or any provision regulating
24 hours and
25 days of work in any order of the Industrial Welfare Commission shall be
26 subject to a civil penalty as follows:

27 (1) For any initial violation, fifty dollars (\$50) for each underpaid
28 employee for each pay period for which the employee was underpaid in
addition to an amount sufficient to recover underpaid wages.

(2) For each subsequent violation, one hundred dollars (\$100)
for each underpaid employee for each pay period for which the
employee was underpaid in addition to an amount sufficient to
recover underpaid wages.

(3) Wages recovered pursuant to this section shall be paid to the
affected employee.

(b) If upon inspection or investigation the Labor Commissioner
determines that a person had paid or caused to be paid a wage for
overtime work in violation of any provision of this chapter, or any
provision regulating hours and days of work in any order of the
Industrial Welfare Commission, the Labor Commissioner may issue a
citation. The procedures for issuing, contesting, and enforcing
judgments for citations or civil penalties issued by the Labor

Commissioner for a violation of this chapter shall be the same as those set out in Section 1197.1.

(c) The civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.

47. DEFENDANT has intentionally and uniformly failed to pay PLAINTIFF and the other members of the CALIFORNIA LABOR SUBCLASS, who are classified as non-exempt employees, the correct amount of overtime required by law for all hours worked by these employees. DEFENDANT fails to pay overtime compensation for all hours worked in excess of 8, in excess of 40 in a workweek, and/or on the seventh consecutive workday of a workweek, thereby incorrectly pays the members of the CALIFORNIA LABOR SUBCLASS a reduced amount of overtime compensation. This was done in an illegal attempt to avoid payment of overtime wages and other benefits in violation of the Cal. Lab. Code and Industrial Welfare Commission requirements.

48. No member of the CALIFORNIA LABOR SUBCLASS was or is an executive, administrator, professional or computer professional because they all fail to meet the requirements established by Order No. 4-2001 for such an exemption. PLAINTIFF, and other members of the CALIFORNIA LABOR SUBCLASS, do not fit the definition of an exempt executive, administrative, or professional employee because:

(a) They primary duties necessitated the performance of manual labor, and therefore the Technicians did not work as executives or administrators; and,

(b) The professional exemption articulated in Wage Order No. 4, section (1)(A)(3)(h) and Labor Code § 515, and the professional exemption articulated in Cal. Lab. Code § 515.5, does not apply to PLAINTIFF, or to the other members of the CALIFORNIA LABOR SUBCLASS, because they are either computer software employees paid less than the requisite amount set forth in Cal. Lab. § 515.5(a)(4) and under subdivision (1)(A)(3)(h)(iv) of Order No. 4, and/or did not otherwise meet all the applicable requirements to work under the exemption of professional employee for the reasons set forth above in this Complaint.

1 49. During the class period, the PLAINTIFF, and the other members of the
2 CALIFORNIA LABOR SUBCLASS, worked more that eight (8) hours in a workday,
3 and/or more than forty (40) hours in a workweek and/or also worked on the seventh (7th) day
4 of a workweek without compensation. This overtime work is documented by IKON
5 Activity Reports but was paid incorrectly as herein alleged.

6 50. At all relevant times, DEFENDANT systematically and uniformly, as a matter
7 of company policy and practice, failed to correctly pay PLAINTIFF, and other members of
8 the CALIFORNIA LABOR SUBCLASS, the required amount of overtime compensation for
9 the hours they have worked in excess of the maximum hours permissible by law as required
10 by Cal. Lab. Code §§ 510 and 1198, even though PLAINTIFF, and the other members of the
11 CALIFORNIA LABOR SUBCLASS, were regularly required to work, and did in fact work,
12 overtime hours.

13 51. By virtue of DEFENDANT's unlawful failure to fully pay the required
14 compensation to the PLAINTIFF, and the other members of the CALIFORNIA LABOR
15 SUBCLASS for the documented overtime hours worked, the PLAINTIFF, and the other
16 members of the CALIFORNIA LABOR SUBCLASS, have suffered, and will continue to
17 suffer, an economic injury in amounts which are presently unknown to them and which will
18 be ascertained according to proof at trial.

19 52. DEFENDANT knew or should have known that PLAINTIFF, and the other
20 members of the CALIFORNIA LABOR SUBCLASS, were not paid the correct amount of
21 overtime compensation because DEFENDANT (1) directed the employee to perform the
22 work, (2) documented the unpaid hours worked in reports, (3) directed the employee to
23 travel or attend training, and/or (4) knew that the requirements of the Technician employees
24 required them to perform work which was not recorded by the telephone system or the
25 handheld device system used by DEFENDANT to record hours, and therefore, either
26 through intentional malfeasance or gross nonfeasance, elected not to fully pay them for their
27 overtime labor as a matter of uniform corporate policy, practice and procedure.

28 53. Therefore, PLAINTIFF, and the other members of the CALIFORNIA LABOR

1 SUBCLASS, request recovery of overtime compensation according to proof, interest, and
2 costs pursuant to Cal. Lab. Code §1194(a), as well as the assessment of any statutory
3 penalties against DEFENDANT, in a sum as provided by the Cal. Lab. Code and/or other
4 statutes. Further, as provided by Cal lab. Code § 203, on behalf of employees in the
5 CALIFORNIA LABOR SUBCLASS who have terminated their employment, these
6 employees are also entitled to thirty days of pay as penalty for not paying all wages due at
7 time of termination as required by law, and hereby demand an accounting and payment of all
8 wages due, plus interest.

9 54. In performing the acts and practices herein alleged in violation of labor laws
10 and refusing to provide the requisite overtime compensation, the DEFENDANT acted and
11 continues to act intentionally, oppressively, and maliciously toward the PLAINTIFF, and
12 toward the other members of the CALIFORNIA LABOR SUBCLASS, with a conscious and
13 utter disregard of their legal rights, or the consequences to them, and with the despicable
14 intent of depriving them of their property and legal rights and otherwise causing them injury
15 in order to increase corporate profits at the expense of PLAINTIFF and the members of the
16 CALIFORNIA LABOR SUBCLASS.

17 **THIRD CAUSE OF ACTION**

18 **For Failure to Provide Accurate Itemized Statements**

19 **[Cal. Lab. Code § 226]**

20 **(By PLAINTIFF and the CALIFORNIA LABOR SUBCLASS and against All**
21 **Defendants)**

22 55. PLAINTIFF, and the other members of the CALIFORNIA LABOR
23 SUBCLASS, reallege and incorporate by this reference, as though fully set forth herein,
24 paragraphs 1 through 54 of this Complaint. This cause of action is brought on behalf of
25 PLAINTIFF and the CALIFORNIA LABOR SUBCLASS.

26 56. Cal. Labor Code § 226 provides that an employer must furnish employees with
27 an "accurate itemized statement in writing showing:
28

- 1 (1) gross wages earned,
- 2 (2) total hours worked by the employee, except for any employee whose
- 3 compensation is solely based on a salary and who is exempt from payment of
- 4 overtime under subdivision (a) of Section 515 or any applicable order of the
- 5 Industrial Welfare Commission,
- 6 (3) the number of piece-rate units earned and any applicable piece rate if the employee
- 7 is paid on a piece-rate basis,
- 8 (4) all deductions, provided that all deductions made on written orders of the
- 9 employee may be aggregated and shown as one item,
- 10 (5) net wages earned,
- 11 (6) the inclusive dates of the period for which the employee is paid,
- 12 (7) the name of the employee and his or her social security number, except that by
- 13 January 1, 2008, only the last four digits of his or her social security number or an
- 14 employee identification number other than a social security number may be shown on
- 15 the itemized statement,
- 16 (8) the name and address of the legal entity that is the employer, and
- 17 (9) all applicable hourly rates in effect during the pay period and the corresponding
- 18 number of hours worked at each hourly rate by the employee.”

19 57. At all times relevant herein, DEFENDANT violated Labor Code § 226, in that
20 DEFENDANT failed to properly and accurately itemize the gross wages earned, the net
21 wages earned, and all applicable hourly rates in effect during the pay period and the
22 corresponding number of hours worked at each hourly rate by the employee. DEFENDANT
23 also failed to provide a written wage statement without charge to the employee, as required
24 by Labor Code § 226(a).

25 58. DEFENDANT knowingly and intentionally failed to comply with Labor Code
26 § 226, causing damages to PLAINTIFF, and the other members of the CALIFORNIA
27 LABOR SUBCLASS. These damages include, but are not limited to, costs expended
28 calculating the true hours worked and the amount of employment taxes which were not

properly paid to state and federal tax authorities. These damages are difficult to estimate. Therefore, PLAINTIFF, and the other members of the CALIFORNIA LABOR SUBCLASS may recover liquidated damages of \$50.00 for the initial pay period in which the violation occurred, and \$100.00 for each violation in subsequent pay period pursuant to Labor Code § 226, in an amount according to proof at the time of trial (but in no event more than \$4,000.00 for PLAINTIFF and each respective member of the CALIFORNIA LABOR SUBCLASS herein) plus such other relief as ordered by the Court pursuant to Labor Code § 226(g).

FOURTH CAUSE OF ACTION

For Failure to Provide Indemnification of Business Expenses

[Cal. Lab. Code § 2802]

(By PLAINTIFF and the CALIFORNIA CLASS and against All Defendants)

59. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and incorporate by this reference, as though fully set forth herein, paragraphs 1 through 58 of this Complaint. This cause of action is brought on behalf of PLAINTIFF and the CALIFORNIA CLASS.

60. Pursuant to Cal. Labor Code § 2802, DEFENDANTS are required to reimburse PLAINTIFFS and other members of the CALIFORNIA CLASS for the expenses incurred by them in the performance of their job duties, including but not limited to expenses incurred by the use of their vehicles, mileage, cell phone usage, equipment purchases, uniforms, internet usage, and telephone usage resulting from the performance of their job duties, at a reasonable rate.

61. At all times relevant herein, DEFENDANT violated Labor Code § 2802, in that during the last four years, PLAINTIFFS and the other members of the CALIFORNIA CLASS have been required to personally incur and pay for these expenses in the discharge of their employment duties all without reimbursement from the DEFENDANT. DEFENDANT's company policy and practice was not to pay, or not to fully pay, employees

1 reimbursement for business expenses and instead to even deduct expenses from employee
2 wage sums in violation of Cal. Labor Code §221 and the regulations of the Industrial
3 Welfare Commission.

4 62. As a proximate result of the aforementioned violations, PLAINTIFF, and the
5 other members of the CALIFORNIA CLASS, have been damaged in an amount according
6 to proof at trial. Pursuant to Labor Code § 2802, PLAINTIFF and the other members of the
7 CALIFORNIA CLASS are entitled to recover the full amount of expenses they incurred in
8 the course of the job duties.

9
10 **FIFTH CAUSE OF ACTION**

11 **For Failure to Pay Overtime Compensation**

12 **[FLSA, 29 U.S.C. § 201, *et seq.*]**

13 **(By PLAINTIFF and the COLLECTIVE CLASS)**

14 63. PLAINTIFF, on behalf of himself and the other members of the
15 COLLECTIVE CLASS, reallege and incorporate by reference, as though fully set forth
16 herein, paragraphs 1 through 62 of this Complaint. This cause of action is brought on behalf
17 of PLAINTIFF and the COLLECTIVE CLASS.

18 64. PLAINTIFF also brings this lawsuit on behalf of himself individually and as
19 collective action under the Fair Labor and Standards Act, 29 U.S.C. § 201, *et seq.* (the
20 “FLSA”), on behalf of all persons nationwide who were, are, or will be employed by
21 DEFENDANT in a position entitled “Technician” or “Customer Service Technician”, or in
22 any other substantially similar positions (collectively “Technician Employees”) during the
23 period commencing three years prior to the filing of this Complaint and ending on the date
24 as the Court shall determine (the “COLLECTIVE CLASS PERIOD”), who were classified
25 as exempt from overtime compensation based on job title alone (the “COLLECTIVE
26 CLASS”). To the extent equitable tolling operates to toll claims by the COLLECTIVE
27 CLASS against the DEFENDANTS, the COLLECTIVE CLASS PERIOD should be
28 adjusted accordingly. The COLLECTIVE CLASS includes all such persons, whether or not

1 they were paid hourly, by piece rate, by commission, by salary, or by part hourly, part
2 commission and/or part salary.

3 65. PLAINTIFF, and the other members of the COLLECTIVE CLASS, are
4 paid a salary but are not paid overtime compensation for all hours worked in excess of forty
5 (40) hours in a work week.

6 66. Questions of law and fact common to the COLLECTIVE CLASS as a whole,
7 but not limited to the following, include:

- 8 a. Whether DEFENDANT failed to adequately compensate the members
9 of the COLLECTIVE CLASS for all hours worked in excess of forty
10 (40) in a workweek as required by the FLSA, including the time
11 worked through their meal periods;
12 b. Whether DEFENDANTS should be enjoined from continuing the
13 practices which violate the FLSA; and,
14 c. Whether DEFENDANTS are liable to the COLLECTIVE CLASS.

15 67. The Fifth cause of action for the violations of the FLSA may be brought and
16 maintained as an "opt-in" collective action pursuant to Section 16(b) of FLSA, 29 U.S.C.
17 216(b), for all claims asserted by the representative PLAINTIFF of the COLLECTIVE
18 CLASS because the claims of the PLAINTIFF are similar to the claims of the members of
19 the prospective COLLECTIVE CLASS.

20 68. PLAINTIFF and the other members of the COLLECTIVE CLASS are
21 similarly situated, have substantially similar job requirements and pay provisions, and are
22 subject to DEFENDANT's common and uniform policy and practice of failing to pay for all
23 overtime hours worked and overtime wages earned in violation of the FLSA and the
24 Regulations implementing the Act as enacted by the Secretary of Labor (the
25 "REGULATIONS").

26 69. DEFENDANT is engaged in communication, business, and transmission
27 throughout the United States and is, therefore, engaged in commerce within the meaning of
28 29 U.S.C. § 203(b).

1 70. 29 U.S.C. § 255 provides that a three-year statute of limitations applies to
2 willful violations of the FLSA. The violations of the FLSA alleged herein were willful.

3 71. The Fair Labor Standards Act, 29 U.S.C. §201, *et seq.*, states that an employee
4 must be compensated for all hours worked, including all straight time compensation and
5 overtime compensation. 29 C.F.R. §778.223 and 29 C.F.R. §778.315. This Court has
6 concurrent jurisdiction over claims involving the Fair Labor Standards Act pursuant to 29
7 U.S.C. § 216.

8 72. Section 207(a) of the FLSA provides that:

9 Except as otherwise provided in this section, no employer shall employ any of
10 his employees who in any workweek is engaged in commerce or in the
11 production of goods for commerce, or is employed in an enterprise engaged in
12 commerce or in the production of goods for commerce, for a workweek longer
13 than forty hours unless such employee receives compensation for his
14 employment in excess of the hours above specified at a rate not less than one
15 and one-half times the regular rate at which he is employed.

16 73. Section 213(a)(1) of the FLSA provides that the overtime pay requirement
17 does not apply to:

18 any employee employed in a bona fide executive, administrative, or
19 professional capacity (including any employee employed in the capacity of
20 academic administrative personnel or teacher in elementary or secondary
21 schools), or in the capacity of outside salesman (as such terms are defined and
22 delimited from time to time by regulations of the Secretary, subject to the
23 provisions of the Administrative Procedure Act [5 USCS §§ 551 *et seq.*]
24 except [that] an employee of a retail or service establishment shall not be
25 excluded from the definition of employee employed in a bona fide executive
26 or administrative capacity because of the number of hours in his workweek
27 which he devotes to activities not directly or closely related to the performance
28 of executive or administrative activities, if less than 40 per centum of his

hours worked in the workweek are devoted to such activities).

74. DEFENDANT has willfully engaged in a widespread pattern and practice of violating the provisions of the FLSA, as detailed above, by paying these employees a salary, including PLAINTIFF and the other members of the COLLECTIVE CLASS who worked on the production side of the DEFENDANT's business enterprise, but failed to properly pay overtime compensation for all hours worked in excess of forty (40) in a work week. This was done in an illegal attempt to avoid payment of overtime wages and other benefits in violation of the FLSA and Code of Federal Regulations requirements.

75. Pursuant to the Fair Labor Standards Act, 29 U.S.C. § 201, et seq., PLAINTIFF and the members of the COLLECTIVE CLASS are entitled to overtime compensation for all overtime hours actually worked. PLAINTIFF and the members of the COLLECTIVE CLASS are entitled to wages at a rate not less than one and one-half times their regular rate of pay for all hours worked in excess of forty (40) hours in any workweek.

76. 29 C.F.R. 541.2 establishes that a job title alone is insufficient to establish the exempt status of an employee. The exempt or nonexempt status of any particular employee must be determined on the basis of whether the employee's salary and duties meet the requirements of the regulations in this part.

77. The exemptions of the FLSA as listed in section 13(a)(15) do not apply to PLAINTIFF and the other members of the COLLECTIVE CLASS, because their work consists of non-management, manual, and production line labor.

78. For an employee to be exempt as a bona fide "executive," all the following criteria must be met and DEFENDANT has the burden of proving that:

- (a) The employee is compensated on a salary basis at a rate of not less than \$ 455 per week.
- (b) The employee's primary duty must be management of the enterprise, or of a customarily recognized department or subdivision;
- (c) The employee must customarily and regularly direct the work of at least two (2) or more other employees;

1 (d) The employee must have the authority to hire and fire, or to command
2 particularly serious attention to his or his recommendations on such actions
3 affecting other employees; and,

4 (e) The employee must be primarily engaged in duties which meet the test of
5 exemption.

6 No member of the COLLECTIVE CLASS was or is an executive because they all fail to
7 meet the requirements of being an "executive" under section 13 of the FLSA and 29 C.F.R.
8 541.100.

9 79. For an employee to be exempt as a bona fide "administrator," all of the
10 following criteria must be met and DEFENDANT has the burden of proving that:

11 (a) The employee is compensated on a salary basis at a rate of not less than \$ 455
12 per week.

13 (b) The employee must perform office or non-manual work directly related to
14 management or general business operation of the employer or the employer's
15 customers;

16 (c) The employee must customarily and regularly exercise discretion and
17 independent judgment with respect to matters of significance; and,

18 (d) The employee must regularly and directly assist a proprietor or an exempt
19 administrator; or,

20 (e) The employee must perform under only general supervision, work requiring
21 special training, experience, or knowledge; and,

22 (f) The employee must be primarily engaged in duties which meet the test of
23 exemption.

24 No member of the COLLECTIVE CLASS was or is an administrator because they all fail to
25 meet the requirements for being an "administrator" under section 13(a) of the FLSA and 29
26 C.F.R. 541.200. PLAINTIFF and the other members of the COLLECTIVE CLASS
27 perform their primary, day to day duties on the production side of the DEFENDANT's
28 enterprise without the requisite amount of discretion and independent judgment required to

1 qualify for the administrative exemption.

2 80. During the COLLECTIVE CLASS PERIOD, PLAINTIFF, and other
3 members of the COLLECTIVE CLASS, worked more than forty (40) hours in a work week.

4 81. At all relevant times, DEFENDANT failed to pay PLAINTIFF, and other
5 members of the COLLECTIVE CLASS overtime compensation for the hours they have
6 worked in excess of the maximum hours permissible by law as required by section 7 of the
7 FLSA, even though PLAINTIFF and the other members of the COLLECTIVE CLASS,
8 were regularly required and scheduled to work, and did in fact work, overtime hours.

9 82. For purposes of the Fair Labor Standards Act, the employment practices of
10 DEFENDANT concerning the classification of and payment of overtime wages to Claims
11 Examiner Employees were and are uniform throughout the United States in all respects
12 material to the claims asserted in this Complaint.

13 83. As a result of DEFENDANT's failure to pay overtime compensation for hours
14 worked, as required by the FLSA, PLAINTIFF and the members of the COLLECTIVE
15 CLASS were damaged in an amount to be proved at trial.

16 84. PLAINTIFF, therefore, demand that he and the other members of the
17 COLLECTIVE CLASS be paid overtime compensation as required by the FLSA for every
18 hour of overtime worked in any work week for which they were not compensated, liquidated
19 damages, plus interest as provided by law.

20
21 **PRAYER**

22 WHEREFOR, PLAINTIFF prays for judgment against each Defendant, jointly and
23 severally, as follows:

- 24 A) That the Court certify the First, Second, Third and Fourth Causes of Action
25 asserted to proceed as a class action pursuant to Fed. R. Civ. Proc., rule 23;
26 B) Compensatory damages, according to proof at trial due PLAINTIFF and the
27 other members of the CALIFORNIA LABOR SUBCLASS, during the
28 applicable CLASS PERIOD plus interest thereon at the statutory rate;

- 1 B) Restitution, according to proof at trial, due PLAINTIFF and the other
2 members of the CALIFORNIA LABOR SUBCLASS, during the applicable
3 CLASS PERIOD plus interest thereon at the statutory rate;
- 4 C) On behalf of the CALIFORNIA CLASS, declaratory, injunctive and other
5 equitable relief, pursuant to Cal. Bus. & Prof. Code § 17203, as may be
6 necessary to prevent and remedy the conduct held to constitute unfair
7 competition.
- 8 D) On behalf of the CALIFORNIA CLASS, an order temporarily, preliminarily
9 and permanently enjoining and restraining DEFENDANT from engaging in
10 practices which violate the UCL and similar unlawful conduct as set forth
11 herein;
- 12 E) An order requiring DEFENDANT to provide an accounting of all hours
13 worked, all wages, and all sums unlawfully withheld from compensation due
14 to PLAINTIFF and the other members of the CALIFORNIA LABOR
15 SUBCLASS;
- 16 F) An award of interest, including prejudgment interest at the legal rate;
- 17 H) An award of liquidated damages, penalties, statutory damages, and cost of
18 suit. Neither this prayer nor any other allegation or prayer in this Complaint is
19 to be construed as a request, under any circumstance, that would result in a
20 request for attorneys' fees or costs available under Cal. Lab. Code § 218.5;
21 and,
- 22 I) Such other and further relief as the Court deems just and proper.

23
24 Dated: March 18 2009

BLUMENTHAL, NORDREHAUG &
BHOWMIK

25
26 By: 

Norman B. Blumenthal
Attorneys for Plaintiff

1 UNITED EMPLOYEES LAW GROUP
2 Walter Haines, Esq.
3 65 Pine Ave, #312
4 Long Beach, CA 90802
5 Telephone: (562) 256-1047
6 Facsimile: (562) 256-1006
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DEMAND FOR JURY TRIAL

Plaintiff demands a jury trial on issues triable to a jury.

Dated: March 18, 2009

BLUMENTHAL, NORDREHAUG &
BHOWMIK

By: 

Norman B. Blumenthal
Attorneys for Plaintiff

UNITED EMPLOYEES LAW GROUP
Walter Haines, Esq.
65 Pine Ave, #312
Long Beach, CA 90802
Telephone: (562) 256-1047
Facsimile: (562) 256-1006

K:\D\NBB\Moore v. Ikon Office Solutions\p-Complaint-Final.wpd

ORIGINAL

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

GLEN MOORE

(b) County of Residence of First Listed Plaintiff Santa Barbara County
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Norman Blumenthal, Blumenthal, Nordrehaug & Bhowmik,
2255 Calle Clara, La Jolla, CA, 92037, (858)551-1223

DEFENDANTS

IKON OFFICE SOLUTIONS, INC.

County of Residence of First Listed Defendant

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)

09 CV 0556 IEG

DEPUTY

POR

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
--	--	--	--	--	--

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing. (Do not cite jurisdictional statutes unless diversity):
29 U.S.C. § 216(b) (Fair Labor Standards Act) and 28 U.S.C. § 1332 (CFAA Jurisdiction)

Brief description of cause:

Claims for unpaid overtime compensation under Federal and California law

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ 5,000,000.00

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

03/18/2009

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

161164

AMOUNT

350.

APPLYING IFP

JUDGE

MAG. JUDGE

CR

UNITED STATES
DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

161164 - SR
* * C O P Y * *
March 18, 2009
16:16:28

Civ Fil Non-Pris
USAO #: 09CV0556
Judge...: IRMA E GONZALEZ
Amount.: \$350.00 CK
Check#: BC#12008

Total-> \$350.00

FROM: MOORE V. IKON OFFICE SOLUTIONS
CIVIL FILING